

**Notice of Allowability**

Application No.

10/003,971

Examiner

Timothy J. Moran

Applicant(s)

GUNN ET AL.

Art Unit

2878

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_\_.
2. ☒ The allowed claim(s) is/are 1-21.
3. ☒ The drawings filed on 02 November 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☒ None   of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)               |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>0903</u> |
| 5 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. <u>encl.</u> | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                       |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material     | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance      |
|  | 9 <input type="checkbox"/> Other   |

### DOCUMENT HANDLING ISSUES

The papers filed on August 15, 2002 (certificate of mailing dated August 9, 2002) have not been made part of the permanent records of the United States Patent and Trademark Office (Office) for this application (37 CFR 1.52(a)) because of damage from the United States Postal Service irradiation process. The above-identified papers, however, were not so damaged as to preclude the USPTO from making a legible copy of such papers. Therefore, the Office has made a copy of these papers, substituted them for the originals in the file, and stamped that copy:

#### COPY OF PAPERS ORIGINALLY FILED

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If applicant wants to review the accuracy of the Office's copy of such papers, applicant may either inspect the application (37 CFR 1.14(d)) or may request a copy of the Office's records of such papers (*i.e.*, a copy of the copy made by the Office) from the Office of Public Records for the fee specified in 37 CFR 1.19(b)(4). Please do **not** call the Technology Center's Customer Service Center to inquiry about the completeness or accuracy of Office's copy of the above-identified papers, as the Technology Center's Customer Service Center will **not** be able to provide this service.

If applicant does not consider the Office's copy of such papers to be accurate, applicant must provide a copy of the above-identified papers (except for any U.S. or foreign patent documents submitted with the above-identified papers) with a statement that such copy is a complete and accurate copy of the originally submitted documents. If applicant provides such a copy of the above-identified papers and statement within **THREE MONTHS** of the mail date of this Office action, the Office will add the original mailroom date and use the copy provided by applicant as the permanent Office record of the above-identified papers in place of the copy made by the Office. Otherwise, the Office's copy will be used as the permanent Office record of the above-identified papers (*i.e.*, the Office will use the copy of the above-identified papers made by the Office for examination and all other purposes). This three-month period is not extendable.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dana Tangren on September 12, 2003.

The application has been amended as follows:

In the specification, page 14, line 4, the terms "are not feasible" are removed.

In the specification, page 17, line 2, the term "chamber 17" is replaced with --chamber 70--.

The second claim 12 is renumbered to be claim 13.

The present claim 13 is renumbered to be claim 14.

The amendment is required to ensure clarity of the specification and claims.

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in the UK on November 8, 2000. It is noted, however, that applicant has not filed a certified copy of the 0027320.1 application as required by 35 U.S.C. 119(b).

### ***Information Disclosure Statement***

The information disclosure statement filed February 26, 2002 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each

publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. Specifically, no copy of Japanese Patent No. JP-137875 has been filed. It has been placed in the application file, but the information referred to therein has not been considered.

***Allowable Subject Matter***

Claims 1-21 are allowed.

The following is an examiner's statement of reasons for allowance: The inclusion in claims 1 and 11 of limitations that a radioactive material measuring method comprises providing two chambers and medium passing through them, providing a detector in contact with the medium of the two chambers, and correcting the level of ions in the first chamber according to a level of ions in the second chamber is considered a nonobvious modification of prior art inventions such as MacArthur. The inclusion in claim 12 of limitations that a radioactive material measuring instrument comprises a first chamber adapted to receive an item to be measured, a first detector communicating with the first chamber, a second chamber communicating with a second detector, and a processor correcting the first detector signal according to a second detector signal is considered a nonobvious modification of prior art inventions such as MacArthur. The inclusion in claim 14 of limitations that a radioactive material measuring method comprises placing an item in a chamber, providing a detector, replacing the medium with a further medium, where the further medium is free of gaseous emitters to a radioactivity level of below 5 Bq/m<sup>3</sup> is considered a nonobvious modification of prior art inventions such as MacArthur. The inclusion in claim 16 of limitations that a

radioactive material measuring instrument comprises a reservoir of further medium, the further medium being free of gaseous emitters to a radioactivity level of below  $5\text{Bq/m}^3$  is considered a nonobvious modification of prior art inventions such as MacArthur. The inclusion in claim 17 of limitations that a radioactive material measuring method comprises placing an item to be measured in a chamber in contact with a medium, and moving the medium prior to an ion measurement being performed, is considered a nonobvious modification of prior art inventions such as MacArthur.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Orr, U. S. Patent No. 6,426,626 describes a radioactive material measuring method comprising a providing a first chamber (50, col. 5, lines 13-26) and a second chamber (15, col. 5, lines 6-11), placing an object to be measured in the first chamber (60, col. 5, lines 21-26), sealing the chambers (col. 5, lines 15-17), and providing an ion detector (35).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Moran whose telephone number is 703-305-0849. The examiner can normally be reached on M-F 8:30-5:00.

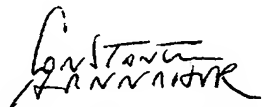
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on 703-308-4852. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

T. M.

TM  
September 7, 2003

  
CONSTANTINE HANNAHER  
PRIMARY EXAMINER  
GROUP ART UNIT 2878